IRESH SIDDHARAM MASHAL
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Date: 2022.08.06 11:15:41 +0530

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 2283 OF 2020

IN

APPEAL (L) NO. 126 OF 2020

IN

CHAMBER SUMMONS NO. 1162 OF 2016

IN

EXECUTION APPLICATION NO. 38 OF 2006

IN

COOPERATIVE CASE NO. CC/I/379 OF 1999

Spice Islands Apparels Ltd …Applicant

In the matter between

Spice Islands Apparels Ltd …Appellant

Versus

Mittal Tower Premises Co-operative Society Ltd & Ors …Respondents

AND

INTERIM APPLICATION NO. 2285 OF 2020

IN

APPEAL (L) NO. 127 OF 2020

IN

CHAMBER SUMMMONS NO. 1167 OF 2016

IN

EXECUTION APPLICATION NO. 38 OF 2006

IN

COOPERATIVE CASE NO. CC/I/379 OF 1999

Bhupco Alloys Ltd …Applicant

In the matter between

Bhupco Alloys Ltd …Appellant

Versus

Mittal Tower Premises Co-operative Society Ltd & 3 Ors …Respondents

WITH

WRIT PETITION NO. 553 OF 1993

Ishwarlal J Shrimankar & Ors ….Petitioner

Versus

SK Laul & Ors ...Respondents

Mr Vineet Naik, Senior Advocate, *with Mr Akshay Vani, Sukand Kulkarni & Mr Manan Jaiswal, i/b MLS & Associates for Applicant/Appellant*

Mr Nikhil Wadikar*, with Faiza Shaikh & Niranjan Kandade, i/b Nandu Pawar for Respondent no. 1.*

Dr Birendra Saraf, Senior Advocate, *with Rohan Sawant, Uma Acharya & Jasmeet Kaur, i/b Jayakar & Partners for Respondents Nos. 2 & 3.*

Mr SK Dhekale Court Receiver, *present.*

CORAM G.S. Patel & Gauri Godse, JJ.

DATED: 4th August 2022

PC:-

1. Following the order dated 28th July 2022, we will need to issue notice to the Bank of India, Mandvi Branch. This will be done

by the office of the Prothonotary and Senior Master. A copy of our order of 28th July 2022 will accompany the notice. The Advocate for the Bank of India will be at liberty to inspect the papers. For the convenience of the bank, attention is drawn to paragraph 2 of our order of 28th July 2022.

2. A Receiver has already been appointed of the premises in question. The Appellants are agents of the Receiver. The Appellants have also deposited in Court an amount of Rs.21,56,737/-. That is invested and is earning interest.

3. We propose, in the common interest of all to have the premises sold through the court. We direct the Court Receiver to circulate through the Advocates for the Appellants and the Advocates for the society, as and when the Bank of India enters appearance, the Advocates for the Bank of India a copy of the standard form of advertisement for sale of the premises in question as also the Advocates for Respondents Nos. 2 and 3. The Advocates for all concerned will consider the terms of the advertisement. In particular all will apply their minds to the question of when the Appellants will be required to deliver possession. We are expressing no opinion on that aspect of the matter at this stage. We propose to hear the suggestions of all concerned on that aspect.

4. We also make it clear that we have not today decided the *inter se* priority of the claims of the bank (said to be a secured creditor), the society and the Appellants who are licensees of the premises in question. All contentions in that regard are expressly

kept open for a decision at a later date. For the present we list the matter for directions on 23rd August 2022.

5. Previous orders to continue.

6. We clarify that the Appellants are not Judgment Debtors. The Judgment or Award Debtors are Respondents Nos. 2 and 3.

(Gauri Godse, J) **(G. S. Patel, J)**